

- February 28, 2007 hearing transcript in the matter captioned *Rule Nisi Proceeding in the Matter of Buzz Telecom, Business Options, Inc., UMCC Holdings, Inc., and Ultimate Medium Communications Corporation: Allegation of Violation(s) of Georgia Public Service Commission Rules and the Telecommunications Marketing Act of 1998*, Docket No. 15968-U.

5. Identify all customers of Buzz Telecom Corp. and/or Business Options, Inc., who filed a complaint with the FCC because they were disconnected from Buzz Telecom Corp. and/or Business Options, Inc., without notification and/or unable to make outbound long-distance telephone calls.

Response: The Bureau objects to Interrogatory No. 5 as outside the purview of permissible discovery against Commission personnel under 47 C.F.R. § 1.311(b)(4) because the information sought is not within the direct personal knowledge of specific Commission personnel to whom the interrogatories were directed. Notwithstanding and subject to the foregoing objection, the Bureau is in the process of seeking such information to the extent it exists and will supplement its response to Interrogatory No. 5 as soon as practicable.

6. Identify all documents/tangible things that the FCC intends to rely upon to prove that such disconnects and/or lack of notification, as described in the responses to Interrogatory No. 5, actually took place.

Response: The Bureau objects to Interrogatory No. 6 to the extent that discovery in this proceeding has only just begun. The Bureau will be seeking discovery of many types of documents, including the categories of documents set forth in the Bureau's First Request for Production of Documents to All Defendants. Moreover, the Bureau has not yet decided on which documents it intends to rely in supporting its allegations and claims. Notwithstanding and subject to the foregoing objections, the Bureau states that it is unaware of any such customers of Buzz Telecom Corp. or Business Options, Inc.

7. Identify all evidence and/or legal theories that the FCC intends to rely upon to prove that the Kintzels, et al., are liable for the discontinuation of service mentioned in the Order to Show Cause, rather than Qwest.

Response: The Bureau objects to Interrogatory No. 7 to the extent it calls

for legal conclusions. The Bureau further objects to Interrogatory No. 7 to the extent that discovery in this proceeding has only just begun. The Bureau will be seeking discovery of many types of documents, including the categories of documents set forth in the Bureau's First Request for Production of Documents to All Defendants. Notwithstanding and subject to the foregoing objections, the Bureau states that it has not yet decided on which documents it intends to rely in supporting its allegations and claims.

8. Disclose whether provisions were considered or made with respect to the 2004 Consent Decree, to prepare for the contingency that Business Options, Inc., would be unable to continue paying the voluntary contributions due to insolvency.

Response: The Bureau objects to Interrogatory No. 8 to the extent it seeks information protected from disclosure under the attorney client privilege or attorney work product doctrine. The Bureau further objects to Interrogatory No. 8 as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

9. Disclose all long-distance providers or resellers that have ever fallen behind in Universal Service Fund contributions, and describe all actions taken against them by the Commission and what resolution was reached.

Response: The Bureau objects to Interrogatory No. 9 as outside the purview of permissible discovery against Commission personnel under 47 C.F.R. § 1.311(b)(4) because the information sought is not within the direct personal knowledge of specific Commission personnel to whom the interrogatories were directed. The Bureau further objects to Interrogatory No. 9 to the extent it seeks to have the Bureau perform legal research on behalf of Defendants. This Interrogatory would require the Bureau to survey all Commission enforcement actions to acquire information unrelated to the facts at issue in this proceeding. In this regard, the Bureau also objects to Interrogatory No. 9 to the extent that the information sought is readily available to Defendants and is a matter of public record. This would include all Notices of Apparent Liability, Forfeiture Orders and Consent Orders issued by the Commission. As to this publicly available information, Defendants are free to conduct legal research regarding Commission precedent. To the extent the information sought is not publicly available, however, the Bureau objects to Interrogatory No. 9 because what minimal relevance the requested information may have (of which the Bureau believes there is none) is outweighed by the burden of gathering and conveying this information. Furthermore, with respect to information that is not publicly available, the Bureau objects to Interrogatory No. 9 as seeking confidential information that the Bureau is not at liberty to disclose pursuant

to the Commission's rules governing publicly available information and inspection of records. Finally, the Bureau objects to Interrogatory No. 9 on the grounds that it is overly broad in that it is not limited to a reasonable period of time.

10. Disclose all long-distance providers or resellers that have ever fallen behind in Telecommunications Relay Service contributions, and describe all actions taken against them by the Commission and what resolution was reached.

Response: The Bureau objects to Interrogatory No. 10 as outside the purview of permissible discovery against Commission personnel under 47 C.F.R. § 1.311(b)(4) because the information sought is not within the direct personal knowledge of specific Commission personnel to whom the interrogatories were directed. The Bureau further objects to Interrogatory No. 10 to the extent it seeks to have the Bureau perform legal research on behalf of Defendants. This Interrogatory would require the Bureau to survey all Commission enforcement actions to acquire information unrelated to the facts at issue in this proceeding. In this regard, the Bureau also objects to Interrogatory No. 10 to the extent that the information sought is readily available to Defendants and is a matter of public record. This would include all Notices of Apparent Liability, Forfeiture Orders and Consent Orders issued by the Commission. As to this publicly available information, Defendants are free to conduct legal research regarding Commission precedent. To the extent the information sought is not publicly available, however, the Bureau objects to Interrogatory No. 10 because what minimal relevance the requested information may have (of which the Bureau believes there is none) is outweighed by the burden of gathering and conveying this information. Furthermore, with respect to information that is not publicly available, the Bureau objects to Interrogatory No. 10 as seeking confidential information that the Bureau is not at liberty to disclose pursuant to the Commission's rules governing publicly available information and inspection of records. Finally, the Bureau objects to Interrogatory No. 10 on the grounds that it is overly broad in that it is not limited to a reasonable period of time.

11. Disclose whether any long-distance provider or reseller has ever become insolvent and/or filed for bankruptcy with a balance due and owing on any FCC-mandated obligation, and describe all actions taken against them by the Commission and what resolution was reached.

Response: The Bureau objects to Interrogatory No. 11 as outside the purview of permissible discovery against Commission personnel under 47

C.F.R. § 1.311(b)(4) because the information sought is *not within the direct personal knowledge of specific Commission personnel to whom the interrogatories were directed*. The Bureau further objects to Interrogatory No. 11 to the extent it seeks to have the Bureau perform legal research on behalf of Defendants. This Interrogatory would require the Bureau to survey all Commission enforcement actions to acquire information unrelated to the facts at issue in this proceeding. In this regard, the Bureau also objects to Interrogatory No. 11 to the extent that the information sought is readily available to Defendants and is a matter of public record. This would include all Notices of Apparent Liability, Forfeiture Orders and Consent Orders issued by the Commission. As to this publicly available information, Defendants are free to conduct legal research regarding Commission precedent. To the extent the information sought is not publicly available, however, the Bureau objects to Interrogatory No. 11 because what minimal relevance the requested information may have (of which the Bureau believes there is none) is outweighed by the burden of gathering and conveying this information. Furthermore, with respect to information that is not publicly available, the Bureau objects to Interrogatory No. 11 as seeking confidential information that the Bureau is not at liberty to disclose pursuant to the Commission's rules governing publicly available information and inspection of records. Finally, the Bureau objects to Interrogatory No. 11 on the grounds that it is overly broad in that it is not limited to a reasonable period of time.

12. Disclose whether the Enforcement Bureau is seeking to impose liability on Kurtis J. and Keanan Kintzel individually for all of the alleged violations described in the Order to Show Cause, FCC 07-165, or only for select alleged violations. If only for select alleged violations, identify which select alleged violations. (Identification of the alleged violation by category/descriptor is sufficient. For example, is the Bureau seeking to impose liability on Kurtis J. and Keanan Kintzel individually for the alleged slamming violations? For the alleged Consent Decree violations? Or only for the alleged discontinuation of service?)

Response: The Bureau objects to Interrogatory No. 12 to the extent that discovery in this proceeding has only just begun. Notwithstanding and subject to the foregoing objection, the Bureau states that the Order to Show Cause speaks for itself.

13. With respect to Your responses to Interrogatory No. 12, disclose the legal

theories You intend to rely upon for imposing individual liability on Kurtis J. and Keanan Kintzel, rather than on their companies (or, in addition to their companies), as to each of the alleged violations for which You are seeking to impose individual liability.

Response: The Bureau objects to Interrogatory No. 13 to the extent it calls for legal conclusions. The Bureau further objects to Interrogatory No. 12 to the extent that discovery in this proceeding has only just begun.

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March 4, 2008

CERTIFICATE OF SERVICE

Rebecca Lockhart, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 4th day of March, 2008, sent by first class United States mail copies of the foregoing **Enforcement Bureau's Objections and Responses to Defendants' Second Set of Interrogatories** to:

Catherine Park, Esq.
2300 M Street, NW, Suite 800
Washington, D.C. 20037

Counsel for Kurtis J. Kintzel, Keanan Kintzel, Business Options, Inc., Buzz Telecom Corporation, US Bell, Inc., Link Technologies and Avatar Enterprises

A copy of the foregoing was also served via hand-delivery to:

Administrative Law Judge Richard L. Sippel
Federal Communications Commission
445 12th Street, S.W., Room 1-C861
Washington, D.C. 20054


Rebecca Lockhart